



# RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/22/01)

Agency: Public Employment Relations Commission

- ☒ Permanent Rule  
☐ Emergency Rule  
☐ Expedited Rule Making

(1) Date of adoption: May 13, 2003

(2) Purpose: To amend chapters 391-08 and -25 WAC to provide for: 1) Publication of agency decisions on website; 2) Consolidation of representation petitions involving any or all of same employees; 3) Merger of state civil service employee bargaining units represented by same employee organization; 4) Repeal as of July 1, 2003 the option for institutions of higher education and exclusive bargaining representatives to bring bargaining units under Chapter 41.56 RCW; and 5) Repeal special provision modifying intervenor rule for petitions involving state civil service employee units.

(3) Citation of existing rules affected by this order:

Repealed: WAC 391-25-011 and -216

Amended: WAC 391-08-670 and 391-25-210

Suspended:

(4) Statutory authority for adoption: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050, 41.06.340, 41.76.060  
Other Authority: See Attachment A

## PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 03-07-093 on March 19, 2003 (date).

Describe any changes other than editing from proposed to adopted version: None

## EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- ☐ (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- ☐ (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?:  
☐ Yes ☒ No If Yes, explain:

(6) Effective date of rule:

### Permanent Rules

- ☐ 31 days after filing  
☒ Other: See Attachment B

### Emergency Rules

- ☐ Immediately  
☐ Later (specify) \_\_\_\_\_

\*(If less than 31 days after filing, specific finding in 5.3 Under RCW 34.05.380(3) is required)

Name (Type or Print)

Marvin L. Schurke

Signature

Title

Executive Director

Date

May 15, 2003

## CODE REVISER USE ONLY

CODE REVISER USE ONLY	
STATE OF WASHINGTON	
FILED	
MAY 15 2003	
808	
WSR	03-11-029 PM

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	<u>1</u>	Amended	_____	Repealed	<u>1</u>

**The number of sections adopted at the request of a nongovernmental entity:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in the agency's own initiative:**

New	<u>1</u>	Amended	<u>2</u>	Repealed	<u>2</u>
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	<u>2</u>	Repealed	<u>1</u>
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	_____	Repealed	_____

**ATTACHMENT A**

Additional statutory authority for the implementation of these rule changes are listed as follows:

Chapter 391-08 WAC

-670

RCW 34.05.220

Chapter 391-25 WAC

-011

RCW 41.56.201

-210

RCW 41.56.070, 41.59.070,  
41.80.080

-426

RCW 41.80.070(3)

## **ATTACHMENT B**

Two different effective dates apply for the rules adopted under this order:

- 1) The repeal of WAC 391-25-011 is effective July 1, 2003.
- 2) All other WAC sections are effective 31 days after filing.

AMENDATORY SECTION (Amending WSR 03-03-064, filed 1/14/03, effective 2/14/03)

**WAC 391-08-670 Decision numbering--Citation of cases--Indexing of decisions.** (1) Each decision issued by the agency in an adjudicative proceeding under the Administrative Procedure Act is assigned a unique number consisting of two or three components, as follows:

(a) The first component, consisting of a number, indicates the sequential number of adjudicative proceedings in which one or more decisions has been issued since the agency commenced operations on January 1, 1976.

(b) The second component (where appropriate) consisting of an alphabetic code in ascending alphabetical order, indicates the second and subsequent decisions issued in the case to which the numerical component was originally assigned.

(c) The third component, consisting of a four-letter alphabetic code, indicates the statute under which the decision was issued:

"CCOL" indicates cases decided under chapter 28B.52 RCW (Collective Bargaining--Academic Personnel in Community Colleges).

"EDUC" indicates cases decided under chapter 41.59 RCW (Educational Employment Relations Act).

"FCBA" indicates cases decided under chapter 41.76 RCW (faculty at public four-year institutions of higher education).

"MRNE" (no longer in use) was formerly used to indicate cases decided under chapter 47.64 RCW, relating to the Washington state ferries system.

"PECB" indicates cases decided under chapter 41.56 RCW (Public Employees' Collective Bargaining Act), including some cases involving port districts.

"PORT" indicates cases decided exclusively under chapter 53.18 RCW (Employment Relations--Collective Bargaining and Arbitration), relating to port districts.

"PRIV" indicates cases decided under chapter 49.08 RCW, relating to private sector employers and employees.

"PSRA" indicates cases decided under RCW 41.06.340 and/or chapter 41.80 RCW (Personnel System Reform Act).

(2) All citations of agency decisions in subsequent agency decisions, in publications of agency decisions, and in briefs and written arguments filed by parties with the agency shall conform to the formats specified in this section:

GENERAL RULE: Citations shall list only the name of the employer *italicized*, the word "Decision" followed by the decision number, and the statute and year the decision was issued (in parenthesis).

Examples: City of Roe, Decision 1234 (PECB, 1992)

City of Roe, Decision 1234-A (PECB, 1993)

City of Roe, Decision 1234-B (PECB, 1994)

EXCEPTION ((~~For decisions being cited within the first year following their issuance, the full date of issuance may be set forth.~~

Example: ~~City of Roe, Decision 1234-C (PECB, December 15, 1995)~~

EXCEPTION 2)) For decisions in which an employee organization or labor organization was named as the respondent in an unfair labor practice case, the citation shall list the name of the union (in parenthesis) following the name of the employer.

Example: City of Roe (Doe Union), Decision 2345 (PECB, 1995)

(3) The agency encourages the publication and indexing of its decisions by private firms, but does not contribute financial support to any such firm and declines to declare any private firm as the "official reporter" of agency decisions.

(4) ~~((The agency uses a commercially published index of its decisions, along with commercially produced computer assisted research tools, in its own operations. The agency makes those indexes available to the public in its offices,))~~ To satisfy the requirements of RCW 42.17.260(5), the agency publishes its decisions, together with a search engine, on its website at: "www.perc.wa.gov".

AMENDATORY SECTION (Amending WSR 01-14-009, filed 6/22/01, effective 8/1/01)

WAC 391-25-210 Bargaining unit configurations(~~---Positions limited by showing of interest~~). (1) In proceedings on a petition for "decertification" under WAC 391-25-070 (6)(c) or 391-25-090(2), the parties shall not be permitted to remove positions from or add positions to the existing bargaining unit;

(2) An organization which files a motion for intervention under WAC 391-25-190 shall (~~only~~) not be permitted to seek a bargaining unit configuration different than proposed by the original petitioner (~~(if the intervenor furnishes a showing of interest demonstrating that it has the support of thirty percent or more of the employees in the bargaining unit which the intervenor claims to be appropriate)~~).

(3) If petitions filed by two or more organizations under this chapter are pending before the agency at the same time and involve any or all of the same employees, the timeliness of the respective petitions and the sufficiency of the respective showings of interest shall be determined separately and the proceedings shall be consolidated for resolution of all issues concerning the description(s) of the bargaining unit(s). A petition filed after the issuance of a notice of election in another proceeding under WAC 391-25-430 or after the commencement of a cross-check in another proceeding under WAC 391-25-410 shall be dismissed as untimely.

(4) A party to proceedings under this chapter shall not be permitted to propose more than one bargaining unit configuration for the same employee or employees, except where a merger of bargaining units is proposed under WAC 391-25-420.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 391-25-011	Special provision--Optional coverage of classified employees of institutions of higher education under chapter 41.56 RCW.
WAC 391-25-216	Special provision--State civil service employees.

NEW SECTION

**WAC 391-25-426 Special provision--State civil service employees.** An employee organization that represents two or more bargaining units of state civil service employees may obtain a merger of those units by filing a petition under WAC 391-25-420 (2)(a). If the merged unit is found to be appropriate under WAC 391-25-420 (2)(c)(i) and (ii), the employee organization shall be certified as exclusive bargaining representative without need for unit determination elections.